

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

YESENIA PACHECO, *et al.*,

Plaintiffs,

V.

UNITED STATES OF AMERICA.

Defendant.

Case No. C15-1175RSL

ORDER REGARDING
DEFENDANT'S MOTION IN
LIMINE

This matter comes before the Court on “Defendant’s Motion in Limine” regarding the damages phase. Dkt. # 149. Defendant seeks to exclude evidence regarding (a) lost wages or expenses that would ordinarily be incurred as the result of having and raising a child and (b) S.L.P.’s lost future wages or general damages. Having reviewed the submissions of the parties,¹ the Court finds as follows:

Under Washington law, Ms. Pacheco and Mr. Lemus may “recover those expenses in excess of the cost of the birth and rearing of [a normal child].” *Harbeson v. Parke-Davis, Inc.*, 98 Wn.2d 460, 477 (1983). Both parties are therefore correct: plaintiffs may not recover for lost wages/expenses that would ordinarily be incurred as the result of the birth of a child, but they may recover for the loss of income associated with taking S.L.P. to medical appointments and therapy sessions.

¹ The Court has considered plaintiffs' untimely response and defendant's reply (which was authorized by the Court's case management order, Dkt. # 135 at 1).

With regards to S.L.P.'s claim, Plaintiffs agree that she is entitled to recover only extraordinary expenses for medical care and special training. *Harbeson*, 98 Wn.2d at 482.

Dated this 1st day of June, 2020.

Robert S. Lasnik
Robert S. Lasnik
United States District Judge